

§ 113.27

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date of the transaction identified on the Customs Bond, Customs Form 301.

(c) *Continuous bond.* A continuous bond is effective on the effective date identified on the Customs Bond, Customs Form 301.

(d) *Riders for name change of principal, address change, and addition of trade names and unincorporated divisions of a corporate principal.* Riders for a name change of principal, address change, and addition of trade names and unincorporated divisions of a corporate principal are effective on the effective date identified on the rider.

(e) *Rider to delete trade names and unincorporated divisions of a corporate principal.* A rider to delete trade names and unincorporated divisions of a corporate principal is effective on the effective date identified on the rider if the date is at least 10 business days after the date the port receives the rider. If the rider is not received 10 business days before the identified effective date or no effective date is identified on the rider, it will be effective on the close of business of the tenth business day after it is received in the port.

§ 113.27 Effective dates of termination of bond.

(a) *Termination by principal.* A request by a principal to terminate a bond shall be made in writing to the port director or drawback office in the case of a bond relating to repayment of erroneous drawback payment where the bond was approved. The termination shall take effect on the date requested if the date is at least 10 business days after the date of receipt of the request. Otherwise the termination shall be effective on the close of business 10 business days after the request is received at the port or drawback office. If no termination date is requested, the termination shall take effect on the tenth business day following the date of receipt of the request by the port director, or drawback office in the case of bonds relating to repayment of erroneous drawback payment.

(b) *Termination by surety.* A surety may, with or without the consent of the principal, terminate a Customs bond on which it is obligated. The surety shall provide reasonable written notice to both the director of the port

where the bond was approved or appropriate drawback office in the case of bonds relating to repayment of an erroneous drawback payment and the principal of the intent to terminate. The written notice shall state the date on which the termination shall be effective and shall be sent to both Customs and the principal by certified mail, with a return receipt requested. Thirty days shall constitute reasonable notice unless the surety can show to the satisfaction of the port director, or drawback office in the case of bonds relating to repayment of an erroneous drawback payment, that a lesser time is reasonable under the facts and circumstances.

(c) *Effect of termination.* If a bond is terminated no new Customs transactions shall be charged against the bond. A new bond in an appropriate amount on Customs Form 301, containing the appropriate bond conditions set forth in subpart G of this part, shall be filed before further Customs activity may be transacted.

[T.D. 84-213, 49 FR 41171, Oct. 19, 1984; 49 FR 44867, Nov. 9, 1984]

Subpart D—Principals and Sureties

§ 113.30 Information pertaining to principals and sureties on the bond.

The general information pertaining to the principal and surety which must be given in the body of the bond is set forth in § 113.21.

§ 113.31 Same party as principal and surety; attorney in fact.

(a) *Same party as principal and surety.* The same person, partnership, or corporation cannot be both principal and surety on a bond.

(b) *Attorney in fact for principal or surety.* In executing a bond, a person may act as:

- (1) Attorney in fact for both principal and surety;
- (2) Surety and attorney in fact for the principal; or
- (3) Principal and attorney in fact for the surety.

§ 113.32 Partnerships as principals.

(a) *Names of partners on the bond—(1) In general.* Unless written notice of the

full names of all partners in the partnership has been previously filed with the port director or drawback office in the case of a bond relating to repayment of erroneous drawback payment, the names of all persons composing the partnership shall appear in the body of the bonds.

(2) *Limited partnerships.* Bonds submitted by limited partnerships need only have the firm name and the names of the general partners authorized to bind the firm on them. The bond must be accompanied by a copy of the partnership agreement. For this purpose, a partnership or a limited partnership means any business association recognized as such under the laws of the state where the association is organized.

(b) *Execution.* Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.

(c) *Action of one principal binding on all principals of the partnership.* Pursuant to section 495, Tariff Act of 1930, as amended (19 U.S.C. 1495), when a bond is executed by any member of the partnership, the bond shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution. However, in the case of a limited partnership, the limited partners will not be bound by the actions of any other partner in the firm, except as provided for in the partnership agreement.

[T.D. 84-213, 49 FR 41171, Oct. 19, 1984, as amended by T.D. 86-204, 51 FR 42998, Nov. 28, 1986]

§ 113.33 Corporations as principals.

(a) *Name of corporation on the bonds.* The name of a corporation executing a Customs bond as a principal, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(b) *Signature and seal of the corporation on the bond.* The bond of a corporate principal shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining

the signature of the person executing the bond, as provided for in § 113.25.

(c) *Bond executed by an officer of corporation.* When a bond is executed by an officer of a corporation, a power of attorney shall not be required if the person signing the bond on behalf of the corporation is known to the port director or drawback office to be the president, vice president, treasurer, or secretary of the corporation. The officer's signature shall be prima facie evidence of that officer's authority to bind the corporation. When a power of attorney is required it shall conform to the requirements of subpart C, part 141, of this chapter.

(d) *Bond executed by an attorney in fact.* When an attorney in fact executes a bond on behalf of a corporate principal and a power of attorney has not been filed with the port director (unless exempted from filing by § 141.46 of this chapter), there shall be attached a power of attorney executed by an officer of the corporation whose authority to execute the power shall be shown as prescribed in paragraph (c) of this section.

(e) *Subsidiaries as co-principals.* The provisions of this section shall be applicable to each corporate subsidiary which joins its parent corporation by signing the bond as co-principal.

§ 113.34 Co-principals.

A bond with a co-principal may be used by a person having a distinct legal status (e.g., individual, partnership, corporation) to join another person with the same distinct legal status on the bond. A bond with a co-principal shall not be used to join an entity which does not have a distinct legal status (e.g. an unincorporated division of a corporation). However, an entity which does not have a distinct legal status may use another bond if listed on the bond by the principal at the time of execution or by subsequent rider (see § 113.24). A bond with co-principal may not be used to join different legal entities (e.g. an individual and a corporation, a partnership and a corporation).

§ 113.35 Individual sureties.

(a) *Number required.* If individuals sign as sureties, there shall be two